IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 6257 of 2007(T)

PETITIONER:

V.SASIDHARAN, S/O.VASU,
PRASANNA BHAVANAM, P.O.CHIMMINI DAM.

BY ADV. SRI.K.S.BHARATHAN

RESPONDENTS:
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1. PRESIDENT, VARANDARAPPILLY GRAMA PANCHAYAT, P.O.VARANDARAPPILLY-680 303.

2. SECRETARY, VARANDARAPILLY GRAMA PANCHAYAT, P.O.VARANDARAPALLY-680 303.

3. THE ASSISTANT ENGINEER, LOCAL SELF GOVERNMENT (WR) DEPARTMENT, GRAMA PANCHAYAT, P.O.VARANDARAPILLY-680 303.

4. V.P.RAJAN, VETTIYATTIL HOUSE, VARANDARAPALLY P.O., VARANDARAPPALLY-680 303.

R1 & R2 BY ADV. SRI.RENJITH THAMPAN, SC.
SMT.P.A.ANITHA
R4 BY ADV. SRI.C.A.CHACKO
R3 BY SR. GOVERNMENT PLEADER (SHRI K. J. MOHAMMED ANZAR)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 6257 OF 2007 T

Dated this the 27th July, 2007

JUDGMENT

Petitioner challenges Exts.P2 and P3. By Ext.P3, the Panchayat Committee took a decision rejecting the tender submitted by the petitioner in respect of the execution of the Nadampadam - Chakkiparamba Scheduled Tribe Colony Houses under the Kerala Development Scheme 2006 - 07. The work has been awarded to the fourth respondent herein. Apart from that, by Ext.P3, a decision was taken not to issue tenders to the petitioner in future. Petitioner submits that the decision is unsustainable and arbitrary and the apprehension of the respondent Panchayat Council in Ext.P3 is without any basis. There is a case of violation of the proviso to Sub-rule (12) of Rule 10 of the Kerala Panchayat Raj (Execution of Public Works) Rules, 1997. Any, I find that this Court has not stayed the award of the work to the fourth respondent. It was also ordered that Ext.P3, to the extent it directs that for future works,

tender schedules will not be given to the petitioner, will be kept in abeyance. Further, it was directed, however, that the order passed by this Court will not stand in the way of the fourth respondent submitting his bills and the Panchayat processing them in accordance with law. This Order is dated 2.4.2007. Heard the learned counsel appearing on behalf of the parties. Counter Affidavits have been filed on behalf of respondents1, 2 & 4.

2. The impugned decision falls in two parts. The first part relates to the award of the work in question to the fourth respondent. As far as that part is concerned, I note that the petitioner did not obtain any order staying the work and this Court also directed that the order passed staying the other portion of Ext.P3 which is in attack, will not stand in the way of the bill being submitted by fourth respondent and it being processed. Of course, learned counsel for the petitioner submits that the award of the work in favour of the fourth respondent itself is unsustainable. But, I

find that the work is completed and the bill has been submitted. I do not think it necessary for me to consider interfering with the same. But, I feel that the second aspect of Ext.P3 has to be interfered with by this Court. The respondent Panchayat has taken a decision not to issue any tender form to the petitioner in future. The decision is challenged as arbitrary. There is no case for the Panchayat that the petitioner was put on notice or it was done after hearing him. Effectively, the decision has the impact of black-listing the petitioner as without issuing tender forms, petitioner will not be able to aspire to carry out works. I would think that before taking such a decision, it was incumbent on the part of the Panchayat to give due regard to the basic principles of natural justice that the petitioner should have been put on notice and given an opportunity of being heard. In such circumstances, while not interfering with the decision to award contract in favour of the fourth respondent, having regard to the fact that the work is already completed and the bill submitted, without pronouncing on the correctness or legality of the

decision taken in favour of the fourth respondent, I quash Ext.P3 to the extent that the respondent Panchayat has resolved not to issue tender forms in favour of the petitioner in future. However, I make it clear that it is open to the respondent Panchayat, after issuing notice to the petitioner and after affording an opportunity of hearing to him, take such decision as is warranted in law. In view of the fact that I am not interfering with the decision to award the work in favour of the fourth respondent, I make clear that it is open to the respondent Panchayat to release the amount due to the fourth respondent in accordance with law.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

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